IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 1047 OF 2007

in

APPEAL (LODGING) NO. 153 OF 2007

IN

COMPANY PETITION NO. 852 OF 2005

Siemens Ltd. ... Appellant
(Orig. Petitioner)

Vs.

Captech Online Ltd.
(formerly known as Captech Online Pvt.Ltd. Respondent

Mr. B.B.Saraf with Ashish Kamat i/b. V.Deshpande & Co. for the appellant.

None for Respondent.

CORAM: D.K.DESHMUKH &
J.H.BHATIA,JJ.

DATE : 26th July, 2007.

P.C.

1. Assuming that there is sufficient cause shown for condonation of delay in filing the appeal, we have heard learned counsel for the appellant on merits.

2. Perused the order passed by the learned Single

Judge dated 21st December, 2006. The learned Single Judge has observed that even assuming that there is an admission to pay Rs.18,00,000/- as arrears of the licence fee, it appears from the record that the appellant is holding security deposit of Rs.45 lakhs. That fact has been noted by the learned Single Judge from the letter written by the respondent-company to the petitioner that as a condition of grant of leave and license, the respondent-company will have to give security deposit of Rs.45 lakhs. Nowhere in the petition, a statement has been made that it was agreed between the parties that the respondent-company will be given the premises on leave and licence without their depositing Rs.45 lakhs as security deposit and that the leave and license agreement was granted without any security deposit.

3. In the face of this position on record, we do not find that any matertial illegality was committed by the learned Single Judge in dismissing the Company Petition for winding up.

The Appeal and the Motion are disposed of.

--

(D.K.DESHMUKH,J.)

(J.H.BHATIA,J.)